

CLINTON CITY BOARD OF ZONING ADJUSTMENT MINUTES

**Jim Cox, Chair
Dennis Henry, Vice Chair
Colin Winchester
Nathan Schow
Ronnie Duncan
PC Representative Bob Buckles
Blair Bateman, Alternate**

BZA Meeting	April 19, 2016	Call to Order: 6:00 P.M.	2267 N 1500 W Clinton UT 84015
Staff Present	Community Development Director Will Wright and Lisa Titensor recorded the minutes.		
Citizens Present	Ross & Janet Gardiner		
Pledge	Board Member Henry		
Prayer or Thought	Board Member Schow		
Roll Call and Attendance	Board Members' Schow, Duncan, Henry, Winchester, and Cox were present. Planning Commissioner Buckles was present.		
Approval of Minutes	The Board of Zoning Adjustment has reviewed the minutes of the last BZA meeting and responded to the Secretary by e-mail for approval.		
Election of Chairman and Vice Chairman	The BZA unanimously agreed that Board Member Cox will serve as the Chair and Board Member Schow will serve as the Vice Chair.		
Planning Commission Update	Commissioner Buckles provided an update on the activities of the Planning Commission for 2015.		
A.	6:00 PM PUBLIC HEARING – REQUEST FOR A VARIANCE: CONSIDER A VARIANCE REQUEST GRANTING A FIVE (5) FOOT SIDE YARD SETBACK (RATHER THAN THE REQUIRED 8 FEET IN AN R-1-9 ZONE) TO ALLOW ADEQUATE ROOM TO BUILD A DOUBLE GARAGE ON THE PARCEL LOCATED AT 2451 WEST 2300 NORTH, CLINTON BY MR. ROSS GARDINER		
Petitioner:	Ross Gardiner, owner of property located at the above address in Clinton.		
Public Hearing and Discussion	<p>Mr. Wright reviewed the information provided in the staff report explaining that Ross Gardiner in his letter of application for this variance stated his house faces north onto 2300 North. Since the house and carport are located in the center of the lot, there is not enough room to build a double garage. He indicated that his wife slipped on the front porch and broke her back and therefore, needs to make accommodations for her to reach the car from a better route. He is asking for a variance for a five foot side yard setback (as opposed to the eight required) on the west side of the house to build a garage and storage for their vehicles.</p> <p>Mr. Wright explained this type of variance has been approved for other lots in this subdivision in the past.</p> <p>Staff found only two previous requests for similar type of variances: 1) in 1987 at 2446 West 2250 North; and 2) in 2005 at 2579 W 2300 N (apparently withdrawn).</p> <p>A review of the criteria for considering a variance request found the following results for the Gardiner request:</p> <ol style="list-style-type: none"> 1) Hardship may be considered unreasonable since Gardiner's could still construct a single garage; 2) There aren't really any special circumstances peculiar to this lot and structure, except the builder put the house more in the center of the lot due to a faulty survey used in its construction; 3) The enjoyment of a substantial property right would be deprived this owner without a variance to allow this double garage; 4) This variance would not affect the general plan; and 5) The spirit of the Zoning Ordinance would still be observed with substantial justice done with this request. <p>An unreasonable hardship is difficult to assess since the Gardiner's have other less favorable options available. It is worth noting, that this request is somewhat</p>		

caused by the builder centering the house more to one side due to a faulty survey, thereby rendering a double garage impossible to construct on the carport, driveway side of the house. It is also important to point out; staff observed that many of the houses in this neighborhood did have double garages. It would seem, therefore, that substantial justice could be done by granting the Gardiner's a similar enjoyment in the use of their property.

Zoning Ordinance References:

1. Section 28-14-3 - This table shows under subsection 3 - Minimum Yard Setbacks under the R-1-9 zone for an interior lot the setbacks are to be 8/10.

2. Section 28-10-8 Variances states, "Any person or entity desiring a waiver or modification of the requirements of the Zoning Ordinance as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the Board of Zoning Adjustments for a variance from the terms of the Zoning Ordinance.

(a) The Board of Zoning Adjustments may grant a variance only if:

(i) Literal enforcement of the Zoning Ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the Zoning Ordinance;

(ii) There are special circumstances attached to the property that do not generally apply to other properties in the same district;

(iii) Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district;

(iv) The variance will not substantially affect the general plan and will not be contrary to the public interest; and

(v) The spirit of the Zoning Ordinance is observed and substantial justice done.

(b)

(i) In determining whether or not enforcement of the Zoning Ordinance would cause unreasonable hardship under 28-10-8 (2)(a), the Board of Zoning Adjustments may not find an unreasonable hardship unless the alleged hardship: (A) is located on or associated with the property for which the variance is sought; and

(B) Comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.

(ii) In determining whether or not enforcement of the Zoning Ordinance would cause unreasonable hardship under 28-10-8 (2) (a), the Board of Zoning Adjustments may not find an unreasonable hardship if the hardship is self-imposed or economic.

(iii) In determining whether or not there are special circumstances attached to the property under 28-10-8 (2)(a), the Board of Zoning Adjustments may find that special circumstances exist only if the special circumstances:

(A) relate to the hardship complained of; and

(B) deprive the property of privileges granted to other properties in the same district.

(1) The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.

(2) Variances run with the land.

Mr. Gardiner stated that all his neighbors have been contacted.

Mr. Wright verified that a notice was published in the newspaper along with letters going out to all the neighbors.

Mr. Gardiner said the problem began with how the house was built on the lot, which was a mistake by the builder. The property line was 8 foot further east than initially thought.

Mr. Wright reviewed the setback requirements identified in the current code for residential zoning with the BZA.

Board Member Schow said he feels that the mistake in the placement of the house

	<p>as well as the previously approved variance in the same subdivision should be a consideration for approving this request.</p> <p>Mr. Gardiner clarified that he has a walk out basement that will impact the size of the garage by 4 feet in the back.</p> <p>The BZA asked for an updated map which includes the 4' adjustment at the rear to attach to the back up material for this issue.</p> <p>Board Member Cox opened the public hearing at 6:33 p.m. with no public comment; he closed the public hearing at 6:34 p.m.</p> <p>Janet Gardner commented that part of the reason for the width of the garage is also to allow for stairs.</p>
<p>CONCLUSION</p>	<p>Board Member Winchester made a motion to allow Mr. Gardiner a variance to build a 26' garage reducing the side yard set back to five feet with the findings of the following criteria:</p> <p>(i) Literal enforcement of the Zoning Ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the Zoning Ordinance;</p> <p>(ii) There are special circumstances attached to the property that do not generally apply to other properties in the same district;</p> <p>(iii) Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district;</p> <p>(iv) The variance will not substantially affect the general plan and will not be contrary to the public interest; and</p> <p>(v) The spirit of the Zoning Ordinance is observed and substantial justice done.</p> <p>Board Member Schow seconded the motion.</p> <p>Voting by roll call is as follows: Board Member Schow, aye; Board Member Duncan, aye; Board Member Henry, aye; Board Member Winchester, aye; Board Member Cox, aye.</p>
<p>ADJOURNMENT</p>	<p>Board Member Henry moved to adjourn. Board Member Schow seconded the motion. Board Members' Schow, Duncan, Henry, Winchester & Cox all voted in favor. The BZA adjourned at 6:43 p.m.</p>
<p>Approval of Minutes</p>	<p>DRAFT minutes sent by e-mail to BZA for approval on April 25, 2016</p> <p>Notice of approval received by:</p> <ul style="list-style-type: none"> • Board Member Duncan • Board Member Schow • Board Member Winchester • Board Member Henry